

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DC3 ENTERTAINMENT, LLC, a Washington
limited liability company,

Plaintiff and Counterclaim Defendant,

v.

JOHN GALT ENTERTAINMENT, INC., a
California corporation; DAVID
KERSHENBAUM and TIMMI DEROSA
KERSHENBAUM, husband and wife and the
marital community composed thereof,

Defendants and Counterclaim Plaintiffs.

JOHN GALT ENTERTAINMENT, INC., a
California corporation; DAVID
KERSHENBAUM and TIMMI DEROSA
KERSHENBAUM, husband and wife and the
marital community composed thereof,

Third-Party Plaintiffs,

v.

JONATHAN PHELPS and ESTHER PHELPS,
husband and wife and the marital community
composed thereof,

Third-Party Defendants.

CASE NO. C04-2374C

ORDER

1 This matter comes before the Court on Defendants' Application for Consent to File Late
2 Oppositions to Plaintiff's and Third-Party Defendants' Motion for Leave to File Amended Complaint,
3 Motion for Extension of Time To Conduct Depositions, and Fourth Motion to Compel (Dkt. No. 146);
4 Defendants' Amended motion for the same (Dkt. No. 154); Plaintiff's and Third-Party Defendants'
5 Opposition thereto (Dkt. No. 168); and Defendants' Reply thereto (Dkt. No. 173). Defendants' request
6 to file a late opposition to the Fourth Motion to Compel has been withdrawn as moot (Reply 2), so
7 requests remain only as to Defendants' oppositions to (1) the Motion for Leave to File Amended
8 Complaint and (2) the Motion for Extension of Time To Conduct Depositions. The Court has considered
9 all of the papers submitted regarding the motion for extension of time and determined that oral argument
10 is not necessary. The Court hereby GRANTS Defendants leave to file the late oppositions and rules as
11 follows.

12 Under Federal Rule of Civil Procedure 6(b), the Court may grant extensions to file documents in
13 its discretion, as follows:

14 When by these rules or by a notice given thereunder or by order of court an act is required
15 or allowed to be done at or within a specified time, the *court for cause shown may at any*
16 *time in its discretion* (1) with or without motion or notice order the period enlarged if
17 request therefor is made before the expiration of the period originally prescribed or as
18 extended by a previous order, or (2) upon motion made after the expiration of the
19 specified period permit the act to be done where the failure to act was the result of
20 excusable neglect

21 FED. R. CIV. P. 6(b) (emphasis added). The instant motion was made after the expiration of the response
22 deadlines (November 9 and November 10, respectively) for the two motions at issue here. Therefore,
23 subsection (2) applies.

24 Plaintiff and Third-Party Defendants' characterization of events regarding late and incomplete
25 filings by Defendants (both on the motions at issue here as well as in other matters) paints the picture that
26 Defendants are somewhat disorganized and are not paying enough attention to deadlines and details. The
Court finds Defendants' lateness and incompleteness disconcerting, and cautions Defendants to be more
cognizant of deadlines and to be comprehensive when filing documents and attachments in the future.

1 Nevertheless, the Court finds Defendants' explanation of their deposition and mediation time
2 constraints satisfactory, such that Defendants' "neglect" may be excused in these instances. The two
3 motions at issue here are "7-day" motions with an already compressed briefing schedule. This short
4 schedule was exacerbated by a federal holiday that fell between the filing of the two motions and their
5 noting dates, which made Defendants' responsive pleadings due on the same dates they would have been
6 without the intervening holiday, but which gave Plaintiff and Third-Party Defendants additional time for
7 their replies. In addition, Plaintiff and Third-Party Defendants did file multiple motions with voluminous
8 attachments in short succession in the month of November. Further, Defendants filed their late
9 oppositions to the motions at issue here the same day as their instant motion for extension of time, and
10 Defendants' late oppositions were filed with the Court by the noting dates for the two motions at issue.
11 Accordingly, the Court finds in its discretion that Defendants' late filings are due to excusable neglect
12 within the meaning of Rule 6(b)(2).

13 For these reasons, the Court GRANTS Defendants' motion for leave to file late oppositions to
14 Plaintiff's and Third-Party Defendants' (1) Motion for Leave to File Amended Complaint and (2) Motion
15 for Extension of Time to Conduct Depositions, which oppositions have already been filed.

16 Finally, the Court notes that several "Supplemental" and "Amended" filings have been presented
17 to the Court on various matters in this case. All parties are advised to be complete in their initial filings
18 and refrain from supplemental or amended filings unless absolutely necessary.

19 SO ORDERED this 8th day of December, 2005.

20
21 

22 John C. Coughenour

23 United States District Judge